IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4622 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 4 - Petitioner(s)
Versus
RANJITSINH TAKHASINH ZALA - Respondent(s)

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Appearance :
MR LB DABHI, AGP for Petitioner(s) : 1 - 5.
RULE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 12/04/2007

ORAL JUDGMENT

1. In the present petition, the petitioner State Government and its authorities have challenged an order dated 3rd August, 2005 passed by the

Presiding Officer, Fast Track Court No.11, Rajkot in regular civil appeal no.134/2000. By the impugned order, learned Judge was pleased to reject an application for condonation of delay in filing the appeal preferred by the petitioners herein.

2. The respondent herein had instituted a regular civil suit no.1024/1988 against the present petitioners. Issue arising as such in civil suit pertains to service dispute. The trial Court allowed the suit and granted certain reliefs in favour of the original plaintiffs except his claim of seniority in service. The suit was disposed of by judgement dated 30th October, 1999. The petitioners aggrieved by the said judgement preferred a regular civil appeal on 30th September, 2000. Since the appeal was filed beyond the period of limitation prescribed, the petitioners have also preferred an application for condonation of delay. Learned Judge however, by his impugned judgement and order refused to condone the delay and rejected the application of the petitioners.

3. Having heard learned AGP Shri L.B. Dabhi for the petitioners and having perused the impugned order, I find that the same cannot be sustained. The petitioners had satisfactorily explained the delay. It was contended on behalf of the petitioners that the delay occasioned on account

of administrative reasons. Even otherwise, extent of delay was neither gross nor was unexplained. It was therefore, not appropriate on part of the Appellate Court to render the appeal of the State infructuous by refusing to condone the delay by taking a strict view of the matter.

4. Even otherwise, it is by now well settled that delay should be considered liberally particularly when the State machinery is involved. In the present case, I do not find that delay was either gross or deliberate or remained totally unexplained.

5. Under the circumstances, impugned order dated 3rd August, 2005 is quashed. Rule made absolute. No order as to costs.

(Akil Kureshi,J.)

(raghu)